

REPORT

OF THE

BOARD OF DIRECTORS

OF THE

Dubuque and Sioux City Railroad Company

TO THE

STOCKHOLDERS.

December 31, 1887.

GENERAL OFFICES :

DUBUQUE, IOWA.

REPORT
OF THE
BOARD OF DIRECTORS
OF THE
Dubuque and Sioux City Railroad Company
TO THE
STOCKHOLDERS.

December 31, 1887.

GENERAL OFFICES:
DUBUQUE, IOWA.

385.4
D 85550

DIRECTORS AND OFFICERS

OF THE

Dubuque and Sioux City Railroad Company

FOR 1888.

HON. W. J. KNIGHT, *President*, - - - Dubuque, Iowa.

E. C. WOODRUFF, Esq., *Vice-President*, - Elizabeth, New Jersey.

JOHN ANTHON, Esq., - - - New York.

S. V. R. CRUGER, Esq., - - - New York.

STUYVESANT FISH, Esq., - - - New York.

W. D. GUTHRIE, Esq., - - - New York.

E. H. HARRIMAN, Esq., - - - Chicago, Illinois.

H. F. WEBSTER, Esq., - - - New York.

ALBERT WILLCOX, Esq., - - - New York.

HON. CLARENCE A. SEWARD, *General Counsel*.

Comm 8026 Tuttle 1887 11 May 27 Th. S. D.

To the Stockholders of the Dubuque & Sioux City Railroad Company :

Your present Directors were chosen in September, 1887. A new President of the Board was elected in the place of the President, who resigned as a Director on September 6, 1887, and who had been President of the Board, with only brief interruptions, if any, from 1864 to 1887. Other new officers were also chosen at the same time, and about October 15, 1887, the Treasurer and Assistant Secretary received from the former Assistant Secretary, besides the official record of the transactions of the Board of Directors, letters, letter books and other documents relating to the affairs of the Company. At one of the earliest meetings of your present Directors, Clarence A. Seward, Esq., of the City of New York, was appointed to be General Counsel of the Company.

More than twenty years ago, and on September 27, 1866, a lease for forty years of the Cedar Falls & Minnesota Railway having been tendered by that Company, was accepted by the then President of this Company under circumstances to be hereafter referred to, and thereafter, on September 13, 1867, your Railway was leased to the Illinois Central for the term of twenty years. An option was therein given to the lessee to renew the latter lease in perpetuity. The Illinois Central therein agreed to assume, for twenty years, that lease of the Cedar Falls & Minnesota to your Company.

It is set forth in the book containing the proceedings of your Directors that in March, 1887, more than six months before the expiration of the lease, the Illinois Central gave to your President due and sufficient notice, as prescribed in the lease, of its election to surrender your Railway on October 1, 1887, and to demand payment for improvements as therein provided. Your Railway was so surrendered by the Illinois Central on October 1, 1887, and has since been operated by officers chosen by us.

The sum of the several amounts which the

lessee had charged from year to year
for permanent expenditures on your

Railway was..... \$914,928 42

And on the Cedar Falls & Minnesota..... 103,793 86

————— \$1,018,722 28

In the lease of the Cedar Falls & Minnesota no provision was made with respect to betterments. Even though your Company may, at the end of the term, have an equitable claim for improvements made, and although it certainly can then remove the personal property and the rolling stock, none of which belongs to the Cedar Falls Company, it is clear that the Illinois Central Company had no such claim as your sub-tenant, nor was any such claim made.

The lease of September 13, 1867, provides that "no account is to be made for improvements made in maintaining and operating" the Railway, and it restricts the allowance to the appraised value at the end of the term of "necessary additional side tracks, new buildings and improvements, properly chargeable to construction," and to the first cost of real estate furnished by the lessee during the term. An appraisal made by Mr. David G. Scott, of Dubuque, acting for your Company, and Mr. Leverett H. Clarke, the Consulting Engineer of the Lake Shore and Michigan Southern Railway, acting for the Illinois Central, resulted in an award for betterments of. . . . \$518,590 81

The first cost of real estate furnished by		
the lessee during the term, and the		
appraised value of other real estate		
since bought from them were.	150,486 29	
	<hr/>	\$669,077 10

For the payment of which sum in one year from October 1, 1887, the obligations of this Company have been given to and accepted by the Illinois Central, and all transactions or agreements arising out of the lease having been closed and performed by both parties, each has released the other, by an instrument under seal, from all obligations thereunder.

Immediately on entering upon their new duties, your Directors made needed traffic and business arrangements with the Illinois Central, the Iowa Falls & Sioux City, and other companies.

Early in November, 1887, the Cedar Falls & Minnesota Company demanded of your Company \$9,447.50 as rent for the previous month. It is believed that the Cedar Falls & Minnesota Company had already claimed the same rental of the Illinois Central as payable by that Company under the lease of September 13, 1867, which demand was rejected. The officers of your Company gave immediate consideration to the operation of the Cedar Falls & Minnesota road by the Illinois Central, while

in its possession, and also to a comparison thereof with the operation under the lease of your road to the Illinois Central. They found the result to have been as follows:

*Comparison of the Results obtained from Operating the D. & S. C. R. R. and
the C. F. & M. R. R. under Lease of Sept. 13th, 1867.
Twenty Years—Oct. 1, 1867, to Sept. 30, 1887.*

	D. and S. C. R. R.	C. F. and M. R. R.	PROPORTION IN PERCENT- AGES OF THE FORMER.
Length of Railroad Oct. 1, 1867.....	142.89 miles.	14.00 miles.	9.80
“ “ Sept. 30, 1887.....	142.89 “	75.58 “	52.89
Average length operated.....	142.89 “	70.2693 “	49.17
Equipment owned:			
Engines	17	None.	
Pass'r, &c., cars.....	14	“	
Freight “	206	“	
GROSS EARNINGS—20 years.....	\$20,530,142 16	\$2,561,291 73	12.47
Yearly average.....	1,026,507 11	128,064 58	12.47
Yearly average per mile oper- ated.....	7,183 90	1,822 48	25.37
OPERATING EXPENSES, including Taxes and Permanents—20 years.....	10,629,427 98	2,241,837 54	21.12
Yearly average... ..	531,471 39	112,241 87	21.12
Yearly average per mile oper- ated.....	3,719 44	1,597 31	42.94
NET EARNINGS—20 years.....	9,900,714 18	316,454 19	3.20
Yearly average.....	495,035 72	15,822 71	3.20
Yearly average per mile oper- ated.....	3,464 46	225 17	6.50
RENTS—20 years*.....	6,057,917 76	2,108,080 00	34.79
Yearly average.....	302,817 50	105,404 00	34.79
Yearly average per mile oper- ated.....	2,119 23	1,500 00	70.78
PROPORTIONS:			
Expenses to gross earnings....	Per Cent. 51.77	Per Cent. 87.64	
Net earnings to gross earnings.	“ 48.23	“ 12.35	
Rent to gross earnings.....	“ 29.50	“ 82.30	
Rent to net earnings.....	“ 61.17	“ 666.15	

* NOTE.—The total rent paid to the D. & S. C. R. R. Co. was..... \$6,576,508 57
Less to be repaid for betterments made under the lease, exclusive
of first cost of real estate..... 518,590 81
Rent actually reserved by lessor..... \$6,057,917 76

The undertaking by your Company in 1866, to pay a minimum annual rental of \$1,500 a mile for a railway having no rolling stock, and which did not in any one of the three years last past, and cannot now, earn its

operating expenses, naturally led your Directors to inquire how, and why, such an onerous and improvident lease could have been accepted by your Company.

This question became for the first time practically important to your Company by reason of the termination of its lease to the Illinois Central and the consequent throwing back upon your Company of the obligation of the annual rental. Your Board therefore addressed itself to the ascertainment of the facts and circumstances connected with the origin of the lease, and with the following result:

On an examination of the proceedings of your then Directors, as set forth in their book of minutes, it appeared that in 1866 the number of your Directors, fixed by law, was nine, but at the meeting of the Board which accepted the lease presented by the lessor and authorized its execution, only four of the nine Directors were present in person, and that the votes of four of the Directors, who were not present, were given in favor of the lease by a proxy held and exercised by the then President of your Company.

At the time the lease was executed the President of the lessee Company and the President of the lessor Company were copartners in the business of supplying the Dubuque & Sioux City, the Cedar Falls & Minnesota and other railways with iron and supplies.

A further inquiry into the circumstances under which the lease came into existence was thereupon committed to the General Counsel of your Company, who advised us, among other things, that in the proceedings of the Directors of the Cedar Falls & Minnesota Company, as set forth in the Minute Book of that Board, it appeared that at the date of the lease, (September 27, 1866,) only fourteen miles of the now seventy-six miles of the lessor had been built; that not even the survey had then been made, or the right of way acquired for the remaining sixty-two miles; that in 1866, the ownership and control of a majority of the shares of the lessor were in the hands of certain "associates," who became a construction Company for the sixty-two miles afterward built; that the six persons who were members of and controlled such association or construction Company, were six of the nine Directors of your Company in 1866; that members of the association or construction Company were Directors of the lessor Company, and, as such, controlled its affairs; that the associates voted in and controlled the directory of each company; and that the lease of the Cedar Falls & Minnesota was, in

effect, a sale of the railway of the latter for forty years to your Company by a transaction in which six associates, a majority of your Directors, sold, what was substantially their own property, to themselves as Agents and Directors of your Company.

In fixing the minimum annual rental at \$1,500 a mile, the controlling consideration could not have been, as it should have been, the earning capacity of the leased road, but was the sum of money needed to pay the interest on the bonds of the Cedar Falls & Minnesota Railroad Company, which the associates had issued, or were preparing to issue, to themselves, which rate of interest was 7 per cent. per annum. To pay such interest and to maintain the organization of the Cedar Falls & Minnesota Company, required the annual sum of about \$113,370. It was secured by fixing the minimum annual rental at \$1,500 per mile, and must have been the only basis upon which such an inordinate rental could have been arranged.

The opinion of our General Counsel was taken on the question, whether or not, upon those facts, and under those circumstances, and after an expiration of twenty years since the execution of the lease, the liability of your Company for such an unconscionable rental thereunder, could be presented for judicial inquiry and decision. The reply was in the affirmative.

On being thus advised, your Directors were unwilling, as your Agents and Trustees, to appropriate the money of your Company to pay such a rental under such a lease, and a suit was forthwith begun in Iowa by this Company for the purpose of presenting the question to the Court whether such lease was, in its inception and execution and character, a valid and binding obligation upon your Company, requiring it to pay, for the ensuing twenty years, the annual minimum rental reserved. This suit is now pending, and will be pressed to an early determination.

The lease of the Cedar Falls & Minnesota Railroad to your Company provided, as has already been stated, for the preposterous minimum fixed rental of \$1,500 per mile per annum under all circumstances, and then, by an ingeniously increasing and upward sliding scale, it was contrived that, under no circumstances, could the proportion of gross earnings reserved for rent be less than 30 per cent. of such gross earnings, and the further sum of \$625 per mile per annum, which last sum would alone be $4\frac{1}{6}$ per cent. upon the actual cost of the road. Had the business and earnings of the Cedar Falls & Minnesota been equal to the pretended antici-

pations of the promoters of building that road to the Minnesota State line, and of the promoters of the lease to your Company, the result under the lease would have been even more injurious to your Company, for if the earnings of the Cedar Falls & Minnesota Railroad had been equal per mile to those of the Dubuque & Sioux City Railroad (they were scarcely equal to one-quarter thereof), the proportion of the gross earnings reserved for rent to be paid by your Company would have been $38\frac{9}{100}$ per cent., and the rental would have been \$205,956 per annum, and that for a piece of railway, without shops, equipment or terminal facilities, and traversing a sparsely-settled country.

Early in the year 1887, the then Directors of your Company published a Statement containing the following:

BALANCE SHEET, DECEMBER 31, 1886.

ASSETS.

Railroad and Appurtenances	\$5,621,112 71
Iowa Land & Loan Co. Stock	260,819 40
Cash	457,461 62
	<hr/>
	\$6,339,393 73
	<hr/>

LIABILITIES.

Capital Stock.	\$4,999,950 62
Dividend Scrip	94 05
Notes, bearing interest at 5 per cent., due 1888, given to retire First Mortgage Bonds.	295,000 00
7 per cent. Mortgage Bonds, due 1894, on road from Cedar Falls to Iowa Falls	586,000 00
Unclaimed Dividends	2,286 48
Unpaid Coupons	2,553 24
Income Account.	453,509 34
	<hr/>
	\$6,339,393 73
	<hr/>

Between the date of that Balance Sheet and September 30, 1887, there appear to have been distributed to the Stockholders of the Dubuque & Sioux City R. R. Co. by the former Directors:

In stock of the Iowa Land and Loan Company	\$249,980 00
And in cash.	404,967 60

The remaining assets, together with the sum of \$70,385.82, which was paid to the former management of your Company on September 1, by the Illinois Central R. R. Co., on account of rent will, doubtless, be hereafter accounted for or turned over by the former officers.

The rent due by the Illinois Central R. R. Co. to the Dubuque & Sioux City R. R. Co. for the nine months from January 1 to September 30, 1887, amounted to..... \$179,577 85

Of which there were received by former man-

agement	\$70,385 82	
And by present management.....	94 80	
	<hr/>	70,480 62

Making the sum due this Company by the Illinois Central R. R. Co. on September 30, 1887.....

\$109,097 23

At that date three months' interest had accrued upon the Bonds of your Company, and upon Notes given in extension of Bonds which fell due in 1883.....

\$13,942 50

And works had been undertaken by the Illinois Central Railroad Company, as your lessee, which made necessary an expenditure for betterments of.....

13,527 42

27,469 92

Leaving the available cash resources Oct. 1, 1887.....

\$81,627 31

The surplus income of the Railway for the three months from October 1, 1887, after providing for the interest on the Debt, Rent of the Cedar Falls & Minnesota R. R., if due, and the Dividend of 1 per cent. paid December 31, 1887, was, as will be seen from detailed statement attached....

4,760 48

Available cash resources, after paying the interest due January 1, 1888.....

\$86,387 79

By order of the Board,

W. J. KNIGHT,

President.

EDWARD P. SKENE,

Assistant Secretary.

March 14, 1888.

Dubuque & Sioux City Railroad.

EARNINGS AND EXPENSES.

THREE MONTHS, OCTOBER 1 TO DECEMBER 31, 1887.

	D. & S. C. R. R. 142 $\frac{89}{100}$ miles.	C. F. & M. R. R. 75 $\frac{58}{100}$ miles.	Both Roads. 218 $\frac{47}{100}$ miles.
Gross EARNINGS.....	\$243,348 33	\$27,313 38	\$270,661 71
* Operation Expenses & Taxes.....	137,383 53	36,236 65	173,620 23
Excess of Earnings over Operation Ex- penses & Taxes.....	\$105,964 75		\$97,041 48
Excess of Operation Expenses & Taxes over Earnings.....		\$8,923 27	

* This includes \$236.97, Permanent Expenses of C. F. & M. R. R.

APPLICATION OF INCOME.

THREE MONTHS, OCTOBER 1 TO DECEMBER 31, 1887.

Net earnings from Traffic of D. & S. C. R. R.....	\$105,964 75
Net loss from Traffic of C. F. & M. R. R., exclusive of rent.....	8,923 27
Available Income for the Quarter.....	\$97,041 48
Applied as follows:	
Quarters' interest on debt, Oct. 1 to Dec. 31, 1887.	
Notes $1\frac{1}{4}$ % on \$295,000.	\$3,687 50
Bonds $1\frac{3}{4}$ % on \$586,000.....	10,255 00
	\$13,942 50
To provide for rent of C. F. & M. R. R., if due.....	28,342 50
Dividend December 31, 1887, 1 % on \$4,999,600.	49,996 00
Balance of Income carried forward.....	4,760 48
	\$97,041 48